

IC 21-18.5-6

Chapter 6. Postsecondary Credit Bearing Proprietary Educational Institution Accreditation

IC 21-18.5-6-1

Purpose

Sec. 1. The general assembly recognizes that the private school is an essential part of the educational system. It is the purpose of this chapter to protect students, educational institutions, the general public, and honest and ethical operators of private schools from dishonest and unethical practices.

As added by P.L.107-2012, SEC.58.

IC 21-18.5-6-2

Authorization required; exception for religious institution

Sec. 2. A person may not do business as a postsecondary credit bearing proprietary educational institution in Indiana without having obtained authorization by the board for proprietary education under this chapter, except for a religious institution that offers educational instruction or an educational program of a clearly religious nature.

As added by P.L.107-2012, SEC.58. Amended by P.L.273-2013, SEC.10.

IC 21-18.5-6-2.5

Accreditation required; exception for religious institution

Sec. 2.5. A person may not do business as a degree granting institution in Indiana unless:

- (1) the institution is accredited by an accrediting agency recognized by the United States Department of Education or is seeking and progressing toward accreditation by an accrediting agency recognized by the United States Department of Education; or
- (2) the institution is a religious institution that offers educational instruction or an educational program of a clearly religious nature.

As added by P.L.273-2013, SEC.11.

IC 21-18.5-6-3

Applications; fee

Sec. 3. Applications for authorization under this chapter must be filed with the board for proprietary education and accompanied by an application fee of at least one hundred dollars (\$100) for processing the application and evaluating the postsecondary credit bearing proprietary educational institution.

As added by P.L.107-2012, SEC.58. Amended by P.L.273-2013, SEC.12.

IC 21-18.5-6-4

Applications; contents

Sec. 4. An application for authorization under this chapter must

include at least the following information:

- (1) The name and address of the postsecondary credit bearing proprietary educational institution and the institution's officers.
- (2) The places where the courses are to be provided.
- (3) The types of courses to be offered, the form of instruction to be followed with the class, shop, or laboratory, and the hours required for each curriculum.
- (4) The form of certificate, diploma, or degree to be awarded.
- (5) A statement of the postsecondary credit bearing proprietary educational institution's finances.
- (6) A description of the postsecondary credit bearing proprietary educational institution's physical facilities, including classrooms, laboratories, library, machinery, and equipment.
- (7) An explicit statement of policy with reference to:
 - (A) solicitation of students;
 - (B) payment and amount of student fees; and
 - (C) conditions under which students are entitled to a refund in part or in full of fees paid, including a statement concerning the existence of the career college student assurance fund established under section 6 of this chapter.
- (8) Provisions for liability insurance of students.
- (9) Maximum student-teacher ratio to be maintained.
- (10) Minimum requirements for instructional staff.

As added by P.L.107-2012, SEC.58. Amended by P.L.273-2013, SEC.13.

IC 21-18.5-6-5

Curriculum catalog and promotional brochure; contents

Sec. 5. The board for proprietary education shall require each postsecondary credit bearing proprietary educational institution to include in each curriculum catalog and promotional brochure the following:

- (1) A statement indicating that the postsecondary credit bearing proprietary educational institution is authorized by the board for proprietary education under this chapter.
- (2) The board for proprietary education's mailing address and telephone number.

As added by P.L.107-2012, SEC.58. Amended by P.L.273-2013, SEC.14.

IC 21-18.5-6-6

Career college student assurance fund; administration

Sec. 6. (a) The career college student assurance fund is established to provide indemnification to a student or an enrollee of a postsecondary credit bearing proprietary educational institution who suffers loss or damage as a result of:

- (1) the failure or neglect of the postsecondary credit bearing proprietary educational institution to faithfully perform all agreements, express or otherwise, with the student, enrollee,

one (1) or both of the parents of the student or enrollee, or a guardian of the student or enrollee as represented by the application for the institution's authorization and the materials submitted in support of that application;

(2) the failure or neglect of the postsecondary credit bearing proprietary educational institution to maintain and operate a course or courses of instruction or study in compliance with the standards of this chapter; or

(3) an agent's misrepresentation in procuring the student's enrollment.

(b) The board for proprietary education shall administer the fund.

(c) The expenses of administering the fund shall be paid from money in the fund.

(d) The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public funds may be invested.

(e) Money in the fund at the end of a state fiscal year does not revert to the state general fund but remains available to be used for providing money for reimbursements allowed under this chapter.

(f) Upon the fund acquiring fifty thousand dollars (\$50,000), the balance in the fund must not become less than fifty thousand dollars (\$50,000). If:

(1) a claim against the fund is filed that would, if paid in full, require the balance of the fund to become less than fifty thousand dollars (\$50,000); and

(2) the board for proprietary education determines that the student is eligible for a reimbursement under the fund;

the board for proprietary education shall prorate the amount of the reimbursement to ensure that the balance of the fund does not become less than fifty thousand dollars (\$50,000), and the student is entitled to receive that balance of the student's claim from the fund as money becomes available in the fund from contributions to the fund required under this chapter.

(g) The board for proprietary education shall ensure that all outstanding claim amounts described in subsection (f) are paid as money in the fund becomes available in the chronological order of the outstanding claims.

(h) A claim against the fund may not be construed to be a debt of the state.

As added by P.L.107-2012, SEC.58. Amended by P.L.273-2013, SEC.15.

IC 21-18.5-6-7

Quarterly contributions to fund; determination

Sec. 7. (a) Except as otherwise provided in this section, each postsecondary credit bearing proprietary educational institution shall make quarterly contributions to the fund. The quarters begin January 1, April 1, July 1, and October 1.

(b) For each quarter, each postsecondary credit bearing proprietary educational institution shall make a contribution equal to

the STEP THREE amount derived under the following formula:

STEP ONE: Determine the total amount of tuition and fees earned during the quarter.

STEP TWO: Multiply the STEP ONE amount by one-tenth of one percent (0.1%).

STEP THREE: Add the STEP TWO amount and sixty dollars (\$60).

(c) After June 30, 2012, upon the career college student assurance fund achieving at least an initial balance of five hundred thousand dollars (\$500,000), a postsecondary credit bearing proprietary educational institution that contributes to the career college student assurance fund when the initial quarterly contribution is required under this chapter after the fund's establishment is not required to make contributions to the fund.

(d) The board for proprietary education shall determine the number of quarterly contributions required for the career college student assurance fund to initially accumulate five hundred thousand dollars (\$500,000).

(e) Except as provided in subsections (a), (b), and (f), a postsecondary credit bearing proprietary educational institution that begins making contributions to the career college student assurance fund after the initial quarterly contribution as required under this section shall make contributions to the fund for the same number of quarters as determined by the board for proprietary education under subsection (d).

(f) If, after a career college student assurance fund acquires five hundred thousand dollars (\$500,000), the balance in the fund becomes less than two hundred fifty thousand dollars (\$250,000), all postsecondary credit bearing proprietary educational institutions not required to make contributions to the career college student assurance fund as described in subsection (c) or (e) shall make contributions to the career college student assurance fund for the number of quarters necessary for the fund to accumulate five hundred thousand dollars (\$500,000).

As added by P.L.107-2012, SEC.58.

IC 21-18.5-6-8

Investigation

Sec. 8. (a) Upon receipt of an application for authorization under this chapter, the board for proprietary education shall make an investigation to determine the accuracy of the statements in the application to determine if the postsecondary credit bearing proprietary educational institution meets the minimum standards for authorization.

(b) During the investigation under subsection (a), the board for proprietary education may grant a temporary status of authorization. The temporary status of authorization is sufficient to meet the requirements of this chapter until a determination on authorization is made.

As added by P.L.107-2012, SEC.58. Amended by P.L.273-2013,

SEC.16.

IC 21-18.5-6-9

Inspection fee

Sec. 9. The cost of performing a team onsite investigation for purposes of section 8 of this chapter shall be paid by the applicant postsecondary credit bearing proprietary educational institution. However, the total cost of an inspection, including room, board, and mileage that does not require travel outside Indiana, may not exceed one thousand dollars (\$1,000) for any one (1) postsecondary credit bearing proprietary educational institution.

As added by P.L.107-2012, SEC.58.

IC 21-18.5-6-10

Student records; contents; surrender to board for proprietary education

Sec. 10. (a) A postsecondary credit bearing proprietary educational institution shall maintain at least the following records for each student:

- (1) The program in which the student enrolls.
- (2) The length of the program.
- (3) The date of the student's initial enrollment in the program.
- (4) A transcript of the student's academic progress.
- (5) The amount of the student's tuition and fees.
- (6) A copy of the enrollment agreement.

(b) Upon the request of the board for proprietary education, a postsecondary credit bearing proprietary educational institution shall submit the records described in subsection (a) to the board for proprietary education.

(c) If a postsecondary credit bearing proprietary educational institution ceases operation, the postsecondary credit bearing proprietary educational institution shall submit the records described in subsection (a) to the commission on public records not later than thirty (30) days after the institution ceases to operate.

As added by P.L.107-2012, SEC.58.

IC 21-18.5-6-11

Authorization standards

Sec. 11. Full authorization under this chapter may not be issued unless and until the board for proprietary education finds that the postsecondary credit bearing proprietary educational institution meets minimum standards that are appropriate to that type or class of postsecondary credit bearing proprietary educational institution, including the following minimum standards:

- (1) The postsecondary credit bearing proprietary educational institution has a sound financial structure with sufficient resources for continued support.
- (2) The postsecondary credit bearing proprietary educational institution has satisfactory training or educational facilities with sufficient tools, supplies, or equipment and the necessary

number of work stations or classrooms to adequately train, instruct, or educate the number of students enrolled or proposed to be enrolled.

(3) The postsecondary credit bearing proprietary educational institution has an adequate number of qualified instructors or teachers, sufficiently trained by experience or education, to give the instruction, education, or training contemplated.

(4) The advertising and representations made on behalf of the postsecondary credit bearing proprietary educational institution to prospective students are truthful and free from misrepresentation or fraud.

(5) The charge made for the training, instruction, or education is clearly stated and based upon the services rendered.

(6) The premises and conditions under which the students work and study are sanitary, healthful, and safe according to modern standards.

(7) The postsecondary credit bearing proprietary educational institution has and follows a refund policy approved by the board for proprietary education.

(8) The owner or chief administrator of the postsecondary credit bearing proprietary educational institution is subject to a background check by the board for proprietary education and has not been convicted of a felony.

(9) The owner or chief administrator of the postsecondary credit bearing proprietary educational institution has not been the owner or chief administrator of a postsecondary credit bearing proprietary educational institution that has had its authorization revoked or has been closed involuntarily in the five (5) year period preceding the application for authorization. However, if the owner or chief administrator of the postsecondary credit bearing proprietary educational institution has been the owner or chief administrator of a postsecondary credit bearing proprietary educational institution that has had its authorization revoked or has been closed involuntarily more than five (5) years before the application for authorization, the board for proprietary education may issue full authorization at the board for proprietary education's discretion.

As added by P.L.107-2012, SEC.58. Amended by P.L.273-2013, SEC.17.

IC 21-18.5-6-12

Issuance of authorization

Sec. 12. (a) After an investigation and a finding that the information in the application is true and that the postsecondary credit bearing proprietary educational institution meets the minimum standards, the board for proprietary education shall issue an authorization to the postsecondary credit bearing proprietary educational institution upon payment of an additional fee of at least twenty-five dollars (\$25). An applicant's market research may not be considered or required by the board for proprietary education as a

condition for authorizing or renewing the accreditation of or for authorization of the programs of a postsecondary credit bearing proprietary educational institution.

(b) The board for proprietary education may waive inspection of a postsecondary credit bearing proprietary educational institution that has been authorized by an accrediting agency recognized by the United States Department of Education whose standards are approved by the board for proprietary education as meeting or exceeding the requirements of this chapter.

(c) A valid license, authorization to operate, or other form of authorization issued to a postsecondary credit bearing proprietary educational institution by another state may be accepted, instead of inspection, if:

(1) the requirements of that state meet or exceed the requirements of this chapter; and

(2) the other state will, in turn, extend reciprocity to postsecondary credit bearing proprietary educational institutions authorized by the board for proprietary education.

(d) The board for proprietary education may join interstate reciprocity agreements and authorize an institution to operate in Indiana, if the:

(1) institution; and

(2) state in which both the institution's:

(A) principal campus is located; and

(B) institutional accreditation is provided;

are members of the interstate reciprocity agreement.

(e) An authorization issued under this section expires one (1) year following the authorization's issuance.

(f) An authorized postsecondary credit bearing proprietary educational institution may renew the institution's authorization annually upon:

(1) the payment of a fee of at least twenty-five dollars (\$25); and

(2) continued compliance with this chapter.

As added by P.L.107-2012, SEC.58. Amended by P.L.13-2013, SEC.61; P.L.273-2013, SEC.18.

IC 21-18.5-6-13

Revocation

Sec. 13. Authorization may be revoked by the board for proprietary education:

(1) for cause upon notice and an opportunity for a hearing before the board for proprietary education; and

(2) for the authorized postsecondary credit bearing proprietary educational institution failing to make the appropriate quarterly contributions to the career college student assurance fund not later than forty-five (45) days after the end of a quarter.

As added by P.L.107-2012, SEC.58. Amended by P.L.273-2013, SEC.19.

IC 21-18.5-6-14

Hearing

Sec. 14. (a) A postsecondary credit bearing proprietary educational institution, after notification that the institution's authorization has been refused, revoked, or suspended, may apply for a hearing before the board for proprietary education concerning the institution's qualifications. The application for a hearing must be filed in writing with the board for proprietary education not more than thirty (30) days after receipt of notice of the denial, revocation, or suspension.

(b) The board for proprietary education shall give a hearing promptly and with not less than ten (10) days notice of the date, time, and place. The postsecondary credit bearing proprietary educational institution is entitled to be represented by counsel and to offer oral and documentary evidence relevant to the issue.

(c) Not more than fifteen (15) days after a hearing, the board for proprietary education shall make written findings of fact, a written decision, and a written order based solely on the evidence submitted at the hearing, either granting or denying authorization to the postsecondary credit bearing proprietary educational institution.

As added by P.L.107-2012, SEC.58. Amended by P.L.273-2013, SEC.20.

IC 21-18.5-6-15

Suspension

Sec. 15. A postsecondary credit bearing proprietary educational institution's authorization shall be suspended at any time if the authorized postsecondary credit bearing proprietary educational institution denies enrollment to a student or makes a distinction or classification of students on the basis of race, color, or creed.

As added by P.L.107-2012, SEC.58. Amended by P.L.273-2013, SEC.21.

IC 21-18.5-6-16

Representations

Sec. 16. A person may not do the following:

(1) Make, or cause to be made, a statement or representation, oral, written, or visual, in connection with the offering or publicizing of a course, if the person knows or should reasonably know the statement or representation is false, deceptive, substantially inaccurate, or misleading.

(2) Promise or guarantee employment to a student or prospective student using information, training, or skill purported to be provided or otherwise enhanced by a course, unless the person offers the student or prospective student a bona fide contract of employment agreeing to employ the student or prospective student for a period of at least ninety (90) days in a business or other enterprise regularly conducted by the person in which that information, training, or skill is a normal condition of employment.

- (3) Do an act that constitutes part of the conduct of administration of a course if the person knows, or should reasonably know, that the course is being carried on by the use of fraud, deception, or other misrepresentation.

As added by P.L.107-2012, SEC.58.

IC 21-18.5-6-17

Liability of institution as principal

Sec. 17. A postsecondary credit bearing proprietary educational institution is liable for the actions of the institution's agents.

As added by P.L.107-2012, SEC.58. Amended by P.L.273-2013, SEC.22.

IC 21-18.5-6-18

Repealed

(Repealed by P.L.273-2013, SEC.23.)

IC 21-18.5-6-19

Remedy; damages or other relief

Sec. 19. The fact that the career college student assurance fund exists does not limit or impair a right of recovery and the amount of damages or other relief to which a plaintiff may be entitled.

As added by P.L.107-2012, SEC.58.

IC 21-18.5-6-20

Claims against balance of career college student assurance fund; determination; priorities

Sec. 20. (a) This section applies to claims against the balance of the career college student assurance fund.

(b) A student or enrollee of a postsecondary credit bearing proprietary educational institution who believes that the student or enrollee has suffered loss or damage resulting from any of the occurrences described in section 6(a) of this chapter may file a claim with the board for proprietary education against the balance of the fund.

(c) A claim under this section is limited to a refund of the claimant's applicable tuition and fees.

(d) All claims must be filed not later than five (5) years after the occurrence resulting in the loss or damage to the claimant occurs.

(e) Upon the filing of a claim under this section, the board for proprietary education shall review the records submitted by the appropriate postsecondary credit bearing proprietary educational institution described under section 12 of this chapter and shall investigate the claim.

(f) Upon a determination by the board for proprietary education that a claimant shall be reimbursed under the career college student assurance fund, the board for proprietary education shall prioritize the reimbursements under the following guidelines:

- (1) A student's educational loan balances.
- (2) Federal grant repayment obligations of the student.

(3) Other expenses paid directly by the student.
As added by P.L.107-2012, SEC.58. Amended by P.L.13-2013, SEC.62.

IC 21-18.5-6-21

Remedy; void contracts

Sec. 21. An obligation, negotiable or nonnegotiable, providing for payment for a course or courses of instruction is void if the postsecondary credit bearing proprietary educational institution is not authorized to operate in Indiana.

As added by P.L.107-2012, SEC.58. Amended by P.L.273-2013, SEC.24.

IC 21-18.5-6-22

Misrepresentation

Sec. 22. The issuance of authorization may not be considered to constitute endorsement of a course, a person, or an institution. A representation to the contrary is a misrepresentation.

As added by P.L.107-2012, SEC.58. Amended by P.L.273-2013, SEC.25.

IC 21-18.5-6-22.5

Deceptive acts

Sec. 22.5. A person who knowingly and intentionally violates section 16 or 22 of this chapter commits a deceptive act that is actionable by the attorney general under IC 24-5-0.5 and is subject to the penalties and remedies available to the attorney general under IC 24-5-0.5.

As added by P.L.273-2013, SEC.26.

IC 21-18.5-6-23

Relief; injunction

Sec. 23. The prosecuting attorney of the county in which an offense under this chapter occurred shall, at the request of the board for proprietary education or on the prosecuting attorney's own motion, bring any appropriate action, including a mandatory and prohibitive injunction.

As added by P.L.107-2012, SEC.58.

IC 21-18.5-6-24

Adjudication

Sec. 24. An action of the board for proprietary education concerning the issuance, denial, or revocation of an authorization under this chapter is subject to review under IC 4-21.5.

As added by P.L.107-2012, SEC.58. Amended by P.L.273-2013, SEC.27.

IC 21-18.5-6-25

Violations

Sec. 25. (a) Except as provided in subsection (b), a person who

knowingly, intentionally, or recklessly violates this chapter commits a Class B misdemeanor.

(b) A person who, with intent to defraud, represents the person to be an agent of a postsecondary credit bearing proprietary educational institution commits a Level 5 felony.

As added by P.L.107-2012, SEC.58. Amended by P.L.158-2013, SEC.252.

IC 21-18.5-6-26

Postsecondary credit bearing proprietary educational institution authorization fund; fees

Sec. 26. (a) As used in this section, "fund" means the postsecondary credit bearing proprietary educational institution authorization fund established by subsection (b).

(b) The postsecondary credit bearing proprietary educational institution authorization fund is established.

(c) The fund shall be administered by the commission (as defined in IC 21-18.5-2-7.).

(d) Money in the fund at the end of a state fiscal year does not revert to the general fund.

(e) All fees collected by the board for proprietary education under this chapter shall be deposited in the fund.

(f) Money in the fund shall be used by the board for proprietary education to administer this chapter.

As added by P.L.107-2012, SEC.58. Amended by P.L.13-2013, SEC.63; P.L.273-2013, SEC.28.

IC 21-18.5-6-27

Rules

Sec. 27. The board for proprietary education may adopt rules under IC 4-22-2 to implement this chapter.

As added by P.L.107-2012, SEC.58.